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EXHIBIT NO. CC 24

EHNSWB Overlay and a possible violation of Substantive Due Process vs Pilot Program

Language of overlay specific to address harm possible during development of steep slopes with erosive soils, yet it captures properties that are not steep or erosive

The absolute prohibition of development.....with NO Appeal (suggests a disregard of the hardship its implementation has on citizens. Shouldn't city care more than that?

The loss of value for developable property (300 acres, at R4, \$150,000 per site) could conservatively be around \$120,000.000. A significant financial impact to address a potential harm that experts agree can be managed with newer techniques. This is especially true considering we're talking about properties that are not characterized by those targeted by the overlay.

These factors reasonably support a Due Process claim as discussed by Washington State case law as cited in the Attorney General's Advisory Opinion. See case summaries in the appendix.

Hypothetically, if a case was made for a violation of Substantive Due Process and found to be true by a state court then the overlay may be invalidated. That would leave property owners in the same shoes as other citizens.....subject to the remaining environmental regulations governing slopes, soils and other critical areas.

It could be argued that changing the purpose of the overlay at this point to address other concerns of development might not be possible if the original demarcation of properties is found to be a violation of Due Process. Adding other restrictions beyond the original purpose of the overlay would continue to target property owners arbitrarily and unreasonably

The pilot program is the result of a commitment to the needs and rights of property and environment. It has been thoroughly and painfully vetted by expert testimony and debate.

Small, well planned and controlled opportunity to demonstrate that certain properties in the overlay can develop without inflicting the harm specific to the overlay's intent

The terms of the pilot study add more restrictions than would be expected of like properties outside of the overlay

This step of compromise provides the opportunity for relief for property owners who would otherwise have to see justice from the court. That is always risky and no one wins.

Pilot Study can prove to be a model of problem solving and provide examples of progressive development techniques that can be utilized beyond the study properties.